



DAN MORALES  
ATTORNEY GENERAL

Office of the Attorney General  
State of Texas

January 23, 1990

Mr. Douglas C. Brown  
General Counsel  
Office of the State Auditor  
Two Commodore Plaza  
206 East Ninth St., Suite 1900  
Austin, Texas 78701

OR91-045

Dear Mr. Brown:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 9655.

You received a request under the Open Records Act for "[i]nvestigative report documents prepared for law enforcement officials in recent months that relate to activities of former chancellors of the American Educational Complex." You state that in August 1989, Professor Terrell Blodgett of the LBJ School of Public Affairs completed a management study of the American Education Complex College District (AEC). The State Auditor's Office worked with Professor Blodgett in examining certain aspects of AEC's financial management. You enclose a copy of Professor Blodgett's report, which includes the state auditor's final audit report as Appendix A. Both Professor Blodgett's report and the final audit report are public records, and you have provided them to us as background information.

As a result of your work at AEC, you discovered evidence of possible illegal transactions involving former AEC officials. Section 321.016(b) of the Texas Government Code provides that if, in the course of an audit, the state auditor finds evidence of an illegal transaction, he shall immediately report it to the appropriate legal authority. As required by this statute, you forwarded the evidence you discovered to the district attorneys of Bell, Coryell, and Travis Counties. You received a telephone call from a reporter, who asked you to confirm that you had referred this matter to legal authorities. You declined to confirm that a referral had been made, in order to protect the rights of the former officials and to avoid jeopardizing any investigation. You then received the request for information described above. You claim that any information relating to your referral to law enforcement authorities, including information that would establish that a referral has in fact been made, is excepted from disclosure by

sections 3(a)(3), 3(a)(8), 3(a)(11), and 3(a)(16) of the Open Records Act.

A letter requesting a decision under the Open Records Act is generally open to the public. Open Records Decision No. 459 (1987). A governmental body may, however, withhold the portions of its request letter that would disclose information previously determined to be excepted from disclosure. *Id.* We have not previously decided whether the fact that a matter has been referred to legal authorities is excepted from disclosure. Therefore, the portions of your request letter that acknowledge your referral of this matter to legal authorities are open to the public.

We have considered one of the exceptions you raise, specifically, section 3(a)(8). Information about criminal conduct that a state agency has gathered in an investigation and that it intends to report to the appropriate law enforcement agency may be withheld pursuant to section 3(a)(8) if its release would unduly interfere with law enforcement. Open Records Decision No. 493 (1988). Information subject to the reporting duty established by section 321.026(b) of the Government Code may also be withheld pursuant to section 3(a)(8), if its release would unduly interfere with law enforcement.

After examining the information you sent us, we conclude that it is excepted from disclosure in its entirety by section 3(a)(8). Although much of the information submitted would also be excepted from disclosure by section 3(a)(16), see Open Records Decision No. 580 (1990), we need not address that exception, or the other two that you have raised. You may withhold the requested information.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-045.

Yours very truly,



Susan Garrison  
Assistant Attorney General  
Opinion Committee

SG/le

Ref.: ID# 9655, 10940

Mr. Douglas G. Brown - Page 3 (OR91-045)

Enclosure: Open Records Decision Nos. 459, 493, 580  
Documents Sent

cc: Nancy P. Stancill  
Reporter  
Houston Chronicle  
P.O. Box 4260  
Houston, Texas 77210